IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

Crl.Rev.Pet.No. 564 of 2007

CRA.603/2005 of ADDL.SESSIONS COURT,-I, MAVELIKKARA
CC.313/2003 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA
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REVN. PETITIONER: APPELLANT/ACCUSED:

A. MARTIN, S/O.PAPPY,
RAJI RAHESH BHAVAN, PERINGALIPPARAM SOUTH,
VAZHUVADI P.O., ENNACKADU.

BY ADV. SRI.A.SHAFEEK

RESPONDENTS: RESPONDENTS/COMPLAINANT & STATE:
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1. PHILOMINA MATHAYI,
PULIMOOTTILTHARAYIL, MATTOM NORTH, MAVELIKARA.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR MR. C.M.KUMMUPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 08/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.564 OF 2007

DATED THIS THE 8TH DAY OF FEBRUARY 2007

ORDER

The revision petitioner is the accused in C.C.No.313/2003 in the file of the Judicial First Class Magistrate Court, Mavelikakra with respect to the offence under Section 138 of the Negotiable Instruments Act. Both the courts below have found that the accused is guilty of the offence. The accused/revision petitioner stands sentenced to undergo simple imprisonment for one month and to pay a compensation of Rs.50,000/- and in default to undergo simple imprisonment for a period of two months more under Section 357(3) of the Code of Criminal procedure. I find that the courts below have exhaustively considered the evidence adduced in the matter. The issuance of the cheque stands admitted. The contention of the revision petitioner is one of discharge. There is no objective evidence to prove discharge except the interested testimony of DW2. Hence, the courts have rightly rejected the plea of discharge set up by the accused. I find no ground at all to interfere in the findings of the courts below. All the same, considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.50,000/-

under Section 357(3)Cr.P.C.and in default to undergo simple imprisonment for two months. The revision petitioner is granted six months time to pay the amount. The accused shall appear before the court below on 9-8-2007 to receive the sentence. The Crl.R.P.is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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